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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 SONYA VALENZUELA, individually and
12 on behalf of all others similarly situated

13 Plaintiff,

14 v.

15 PAPA MURPHY'S INTERNATIONAL
16 LLC, a Delaware limited liability company;
and DOES 1 through 25, inclusive,

17 Defendants.

18 Case No. 5:22-cv-01789-SSS-KK

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**PLAINTIFF'S NOTICE OF
DISMISSAL PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 41(a)(1)(A)(i)**

Filed: October 11, 2022

1 TO THE COURT, CLERK AND ALL PARTIES OF RECORD, please take notice
2 that Plaintiff Sonya Valenzuela (“Plaintiff”) hereby dismisses the instant action against
3 Defendant Papa Murphy’s International LLC (“Defendant”) pursuant to Rule
4 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure *with prejudice* as to the Plaintiff’s
5 individual claims, and *without prejudice* as to the putative class.

6 Pursuant to Rule 23(e), “the district court should inquire into possible prejudice
7 from (1) class members’ possible reliance on the filing of the action if they are likely to
8 know of it either because of publicity or other circumstances, (2) lack of adequate time
9 for class members to file other actions, because of a rapidly approaching statute of
10 limitations, (3) any settlement or concession of class interests made by the class
11 representative or counsel in order to further their own interests.” *Diaz v. Trust Territory*
12 *of the Pacific Islands*, 876 F.2d 1401, 1408 (9th Cir. 1989).

13 In this instance, the *Diaz* factors weigh in favor of dismissal of Plaintiff’s
14 individual claims with prejudice. First, it is the Plaintiff’s counsel’s understanding that
15 this action has not been publicized in any way and as such, the putative class members
16 are highly unlikely to have knowledge of it, or to have relied upon it in any way.
17 Similarly, Plaintiff’s counsel is unaware of any other circumstances that may have led to
18 the putative class’s knowledge of, or reliance upon, this action.

19 Second, the statute of limitations in this action is not approaching. Plaintiff’s
20 claims arose in July 2022 and as such, based on the four-year statute of limitations alleged
21 in this action, the statute of limitations shall not run until July 2026. As such, the rights
22 of the putative class are preserved by the solely individual dismissal of Plaintiff’s claims
23 with prejudice.

24 Lastly, Plaintiff and her counsel made no settlement or concession of class interests
25 in order to resolve Plaintiff’s individual claims. Indeed, the resolution reached between
26 the Parties does not address, affect, or change the putative class’s rights or claims in any
27 manner.

1 An evaluation of the foregoing *Diaz* factors weighs in favor of dismissal of
2 Plaintiff's individual claims with prejudice, and dismissal of the putative class's claims
3 without prejudice.

4 Respectfully submitted,

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6 Dated: December 21, 2022

PACIFIC TRIAL ATTORNEYS

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8 By: /s/ Scott J. Ferrell
9 Scott J. Ferrell
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2022, I electronically filed the foregoing **PLAINTIFF'S NOTICE OF DISMISSAL PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(i)** with the Clerk of the Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ Scott J. Ferrell Esq.
Scott J. Ferrell, Esq.